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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/039,482	11/09/2001	Jimmy G. Bassett	32887/265439	9777

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Charles W. Calkins  
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Winston-Salem, NC 27101

EXAMINER
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ALLEN, MARIANNE P

ART UNIT	PAPER NUMBER
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1647

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/17/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/039,482	BASSETT ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Marianne P. Allen	1647	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 09 March 2006 and 20 November 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 4-13, 23-122 and 154-167 is/are pending in the application.
- 4a) Of the above claim(s) 4-13 and 23-112 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 154-167 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 4-13, 23-122, 154-167 are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

Applicant's arguments filed 3/9/06 and 11/20/06 have been fully considered but they are not persuasive.

Claims 1-3, 14-22, and 122-153 have been cancelled. Claims 154-167 have been newly introduced.

The provisional rejection of claims 1-3 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-38 of copending Application No. 09/805,261 is withdrawn in view of the cancellation of these claims and the abandonment of copending Application NO. 09/805,261.

All prior art rejections have been withdrawn in view of applicant's cancellation of the claims.

### ***Election/Restrictions***

Claims 4-13 and 23-121 remain withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species, there being no allowable generic or linking claim.

Claims 154-167 are under consideration by the examiner.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 154-167 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not

described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. This is a new matter rejection.

Claims 154-167 have been newly introduced. Basis was pointed to in the response filed 3/9/06 as being in Figures 1, 2, 3C-3J, and 7C-7G as well as at paragraphs [8, 10, 13, 19, 73, 74, 98-100, and 147-175] with reference to the corresponding patent publication 20020129004. The response filed 11/20/06 further points to paragraphs [148 and 169] with respect to ternary analysis.

Although not pointed to by applicant, some of the limitations and structure of the claims is found in the originally filed claims. However, all of the limitations of the claims are not supported by the originally filed specification or sections pointed to by applicant.

Claims 154, 159, and 160 recite “by a modeling analysis.” Claims 161-163 add the further limitation of a “ternary analysis.” There is no basis for these broad concepts in the originally filed claims or specification. The specification discloses calculations based on a particular modeling experiment with a particular ternary analysis. Figure 7G shows a particular trilinear analysis for a particular component blend (see for example specification at page 22, first complete paragraph and at page 25, second complete paragraph). This is not sufficient basis for the generic concept as set forth in the claims.

Claims 164 are directed to a system comprising a user input module and a server comprising a wizard that provides a user interface presenting component selection options. The input module and server are connected over a communications network. There does not appear to be basis for a system comprising only a user input module and a server where the server

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comprises only a wizard. There does not appear to be basis for the generic concept of a “communications network.” There does not appear to be basis for the concept of the wizard providing a user interface presenting only component selection options for a component blend. For example, paragraphs [81-88] of the corresponding patent publication 20020129004 describe a system including more components. The wizard is described as having different characteristics.

Claims 154-167 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. This is an enablement rejection.

As set forth in the prior Office actions, no guidance for developing modeling analysis or ternary analysis is provided. The specification and prior art of record do not demonstrate that the trilinear analysis used to predict standard adhesive properties was routinely used by those of ordinary skill in the art for component blends and standard adhesive properties other than that exemplified. The claims are not limited to this trilinear analysis and no guidance to other modeling analysis or ternary analysis is provided.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1-3, 14-22, and 122-136 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tambay et al. (US 2001/0037255 A1) in view of Quinn et al. (US 2003/0139516 A1) and Gorman et al. (US 2002/0078103 A1).

Applicant is not entitled to benefit of provisional application 60/247,537 filed 9 November 2000 for claims 154-167. Tambay et al. (US 2001/0037255 A1) is valid prior art under 102(e).

Tambay et al. (US 2001/0037255 A1) discloses systems and processes for manipulating chemical product, function, or service input information to produce chemical product, function, or service output by using the internet. Implicit in the co-pending system is a computer readable medium. Tambay et al. further teaches a formulation determination calculator or wizard to meet the needs of the adhesive industry. Systems having input modules, processing modules, and output modules are disclosed. User interfaces, database servers, and communication networks

such as the internet are disclosed. See paragraphs [0017, 0020-0022, 0041-0047, 0069-0070, 0102-105, 0117-0119] as well as figures, abstract, and claims.

Quinn et al. (US 2003/0139516 A1) discloses improving hot melt adhesives. Figure 1 shows a trilinear contour plot generated from an experimental design illustrating the change in peel value as the types of resin and the amounts are varied. See paragraph [0021] and [102]-[107]. Various adhesive tests are performed. See paragraphs [0068]-[0086]. Tabular data on adhesive properties is disclosed. See Tables. Such adhesive compositions are commercially useful products. See paragraph [0066]. Quinn et al. does not disclose an internet or extranet based system, computer-readable medium containing computer-executable instructions, or method for providing adhesive compositions.

Gorman et al. (US 2002/0078103 A1) discloses a wizard development kit to provide an environment for deploying web-based applications to end users. See at least abstract, figures, and claims.

It would have been obvious to create software enabled wizards, systems, and methods of using them to select adhesives with particular properties based on their component blends over the internet as a more efficient business model as suggested by Tambay et al. Quinn et al. teaches the experimental design or model for hot melt adhesives where properties can be predicted based upon chemical composition. Tambay et al. demonstrates that it would have been desirable to produce formulation calculators or wizard applications for adhesives. The specification itself acknowledges the desirability of web-based commerce in the background of the invention. One would have been motivated to automate the experimental design results of Quinn et al. to make adhesive compositions with particular properties more readily available to

customers. Gorman et al. makes clear that development of such wizards for web-based applications to end users would have been routine to those of ordinary skill in the art.

Applicant's arguments with respect to lack of motivation to combine the Quinn et al. and Tambay et al. references are not persuasive. Applicant is arguing the references separately and not for what they collectively teach. Tambay et al. clearly shows the desirability of formulation calculators for adhesives and Quinn et al. discloses that one of ordinary skill in the art would have known how to determine or predict properties for such adhesives. As such, one would have been motivated to automate the experimental design of Quinn et al. following the teachings of Gorman et al. and Tamaby et al. for use by a wider group of users such as those on the internet.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.



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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marianne P. Allen whose telephone number is 571-272-0712.

The examiner can normally be reached on Monday-Friday, 5:30 am - 2:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brenda Brumback can be reached on 571-272-0961. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

*Marianne P. Allen*

Marianne P. Allen

Primary Examiner

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4/6/07

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